

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ANSON CHI, #44588-177

§

VS.

§

CIVIL ACTION NO. 4:15cv260
CRIM NO. 4:12CR00155-001

UNITED STATES OF AMERICA

§

ORDER OF DISMISSAL

Petitioner Anson Chi, a prisoner confined in the Fannin County Jail, proceeding *pro se*, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The cause of action was referred to United States Magistrate Judge Christine A. Nowak, who issued a Report and Recommendation concluding that the petition should be dismissed without prejudice as moot. Petitioner has filed objections.

The present petition was filed during the pendency of criminal proceedings in Criminal Number 4:12CR00155-001. On June 11, 2015, Petitioner was sentenced to 240 months of imprisonment. Consequently, on July 14, 2015, Magistrate Judge Nowak issued the Report and Recommendation correctly explaining that the pretrial petition for a writ of habeas corpus is moot since Petitioner has now been convicted. *Fassler v. United States*, 858 F.2d 1016, 1018 (5th Cir. 1988). Petitioner's remedies at this juncture may include a direct appeal from his conviction or a collateral challenge pursuant to 28 U.S.C. § 2255. The records in Petitioner's criminal case reveal that he filed a notice of appeal on June 17, 2015. In his objections, Petitioner discusses grounds for relief which purportedly show that he was erroneously convicted. However, a pretrial petition for a writ of habeas corpus is not the correct forum for bringing such claims; instead, they must be raised on direct appeal to the Fifth Circuit or subsequently in a § 2255 proceeding.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Petitioner's objections are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 is **DISMISSED** without prejudice as moot. All other motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 18th day of August, 2015.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE